

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JAVIER SOLIS-MARRUFO,

Plaintiff,

vs.

No. CIV 11-0107 JB/KBM

BOARD OF COMMISSIONERS FOR  
THE COUNTY OF BERNALILLO,  
BENJAMIN FULLER,  
CHRISTOPHER LEEPER, AND  
JASON PLUM,

Defendants.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on: (i) the County Defendants' Objections Plaintiff's [sic] Exhibit List, filed March 27, 2013 (Doc. 233)("Defendants' Objections"); (ii) the Plaintiff's Objections to County Defendants Second Amended Fact Witness List and Motion to Exclude Testimony, filed March 27, 2013 (Doc. 236)("Plaintiff's Objections"); (iii) the Plaintiff's Objections to County Defendants' Second Amended Exhibit List, filed March 28, 2013 (Doc. 239);<sup>1</sup> (iv) the Plaintiff's Objections to Defendants' Second Amended Notice of Deposition Designations, filed March 29, 2013 (Doc. 247)("Plaintiff's Objections to Depositions"); and (v) the Plaintiff's Objections to County Defendants' Second Amended Witness List, filed March 29, 2013 (Doc. 248)("Plaintiff's Objections II"). All of the parties' objections are overruled, most of these as moot.

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<sup>1</sup> The Plaintiff's Objections to County Defendants Second Amended Fact Witness List and Motion to Exclude Testimony, filed March 27, 2013 (Doc. 236), and the Plaintiff's Objections to County Defendants' Second Amended Exhibit List, filed March 28, 2013 (Doc. 239), are identical, save for their titles. Compare Doc. 236 at 1-6, with Doc. 239, at 1-6. The Court will refer to both Doc. 239 and Doc. 236 as the "Plaintiff's Objections" throughout this Memorandum Opinion and Order.

The Defendants Board of County Commissioners of the County of Bernalillo, Benjamin Fuller, Christopher Leeper, and Jason Plum stipulated to the admission of Solis-Marrufo's Exhibits 1A, 1B, and 1C at trial. See Transcript of Trial at 307:12-17 (taken April 1, 2013)(Oliveros, Robles, Court)("April 1 Tr."); Transcript of Trial at 2:4-7 (taken April 2, 2013)(Oliveros, Court)("April 2 Tr.").<sup>2</sup> Solis-Marrufo did not offer Leeper/Fuller's Belt Tape or a Diagram by Elaine Vigil at trial. Compare Defendants' Objections at 1 (objecting to the introduction of Leeper/Fuller's Belt Tape as "not relevant" and the diagram as a misleading), with Clerk's Minutes at 16-18, filed April 1, 2013 (Doc. 274)(indicating that Leeper/Fuller's Belt Tape and Diagram by Elaine Vigil were not offered into evidence).

Solis-Marrufo withdrew, at trial, his objections to the Defendants' Exhibits A1, A2, and A3 -- diagrams of 1321 Aragon SW, Albuquerque, New Mexico, the Bernalillo County Sheriff's Office South Area Command Center, and the Metropolitan (Albuquerque) Detention Center Booking Area. Compare Plaintiff's Objections at 1-2 (objecting to the Defendants' Exhibits A1, A2, and A3 as inadmissible hearsay, irrelevant, inappropriate character evidence, and overly prejudicial), with April 2 Tr. at 2:12-13 (Oliveros)(Solis-Marrufo withdrawing his objections to Exhibits A1, A2, and A3). Solis-Marrufo informed the Court at trial that he no longer objects to the Defendants' Exhibit F -- a Summary of the Locations of Lieutenant Hampsten's Deputies During the Alleged Beating of Solis-Marrufo (23:02-23:05). Compare Plaintiff's Objections at 2 (objecting to Defendants' Exhibit F as unreliable hearsay), with Transcript of Trial at 202:1-4 (taken April 3, 2013)(Court, Oliveros)("April 3 Tr.")(Solis-Marrufo informing the Court that he has no objection to Defendants' Exhibit F). Solis-Marrufo also informed the Court at trial that he

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<sup>2</sup> The Court's citations to the transcripts of the trial refer to the court reporter's original, unedited version. Any final transcripts may contain slightly different page and/or line numbers.

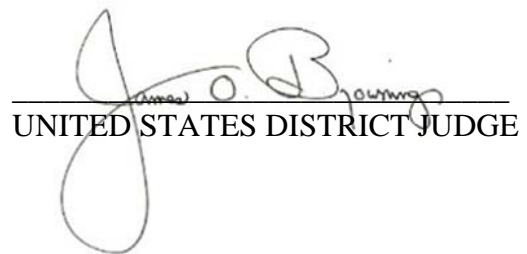
has no objection to the Defendants' Exhibit G -- a Summary of Locations of Sergeant Tafoya's Deputies During the Alleged Beating of Solis-Marrufo (23:02-23:05). Compare Plaintiff's Objections at 2-3 (objecting to the Defendants' Exhibit G as unreliable hearsay), with April 3 Tr. at 67:7-14 (Robles, Court, Oliveros)(Solis-Marrufo informing the Court that he has no objection to Defendants' Exhibit G). Solis-Marrufo informed the Court at trial that he no longer objects to the introduction of Defendants' Exhibit N -- a University of New Mexico Hospital Emergency Department Chart from February 15, 2009. Compare Plaintiff's Objections at 5 (objecting to the Defendants' Exhibit N as a violation of the Court's ruling prohibiting extrinsic evidence of Solis-Marrufo's cocaine use), with April 2 Tr. at 208:14-209:12 (Roman, Court, Harris)(Solis-Marrufo informing the Court that he has no objection to the introduction of Exhibit N). Solis-Marrufo also informed the Court, at trial, that he does not object to the Defendants' calling of former Bernalillo County Sheriff's Office Deputy Veronica Quintana as a witness through her deposition testimony. Compare Plaintiff's Objections II at 1 (objecting to calling Quintana as a witness through her deposition because she is "not unavailable"), and Plaintiff's Objections to Depositions at 1-2 (objecting to the Defendants' introduction of Quintana's deposition, because the Defendants failed to demonstrate that rule 32(a)(4)'s requirements for the introduction of a deposition are met), with April 3 Tr. at 125:14-21 (Roman, Oliveros)(Solis-Marrufo informing the Court that he does not object to introducing portions of Quintana's deposition at trial, as long as particular portions of the deposition are also read).

The Defendants did not offer at trial Exhibit H -- an Offender Booking Sheet from February 3, 2009 -- Exhibit I -- a Metropolitan Detention Center Strip Search Authorization Form, or depositions of Gloria Martinez or Elaine Vigil. Compare Plaintiff's Objections at 4-5

(objecting to Exhibits H and I, because they reference Solis-Marrufo's cocaine use), and Plaintiff's Objections to Depositions at 1 (objecting to the admission of Ms. Martinez' or Ms. Vigil's depositions, because the Defendants did not satisfy the requirements of rule 32(a)(4)), with Clerk's Minutes at 16-18 (indicating that the Defendants did not offer Exhibits H, I, or Ms. Martinez' or Ms. Vigil's depositions at trial).

The parties agreed, at trial, to admit Defendants' Exhibit L -- a Cibola County Detention Center Medical History and Screening Form. Compare Plaintiff's Objections at 4 (objecting to the Defendants' Exhibit L as prejudicial), with April 2 Tr. at 144:21-146:21 (Oliveros, Court, Roman)(the parties agreeing to the admission of Exhibit L for a limited purpose and not to demonstrate Solis-Marrufo's previous cocaine use). Accordingly, the Court will overrule the Plaintiff's Objections, the Plaintiff's Objections II, the Plaintiff's Objections to Depositions, and the Defendants' Objections.

**IT IS ORDERED** that (i) the County Defendants' Objections Plaintiff's [sic] Exhibit List, filed March 27, 2013 (Doc. 233); (ii) the Plaintiff's Objections to County Defendants Second Amended Fact Witness List and Motion to Exclude Testimony, filed March 27, 2013 (Doc. 236); (iii) the Plaintiff's Objections to County Defendants' Second Amended Exhibit List, filed March 28, 2013 (Doc. 239);(iv) the Plaintiff's Objections to Defendants' Second Amended Notice of Deposition Designations, filed March 29, 2013 (Doc. 247); and (v) the Plaintiff's Objections to County Defendants' Second Amended Witness List, filed March 29, 2013 (Doc. 248), are overruled.



UNITED STATES DISTRICT JUDGE

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